

Government Affairs • Business Development

December 22, 2003

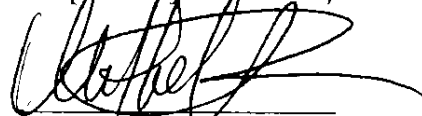
Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth St., S.W.
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Presentations:
Federal-State Joint Board on Universal Service,
CC Docket No. 96-45**

Dear Ms. Dortch:

On December 16, 2003, Mitchell Brown, of Native Affairs & Development Group, met with Matt Brill, Senior Legal Advisor to Commissioner Abernathy on behalf of the federally recognized tribal governments. The purpose was to discuss the pending Federal-State Universal Service Joint Board proceeding and gain insight into the calendar schedule for consideration of the matter in view of the broad general concerns of American Indian tribal governments on behalf of the tribal citizens in their communities.

Respectfully submitted,



Mitchell L. Brown

Enclosures

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American Indian Trust Considerations For Universal Service Joint Board Members

December 2003

Point #1: Indian Reservations and Communities Are High-Cost Areas To Serve and Rely on Universal Service Subsidies In Order For Telephone Service To Be Affordable

- There are more than 150 Indian reservations and communities located in rural America with more than nine hundred thousand tribal members residing on these reservations and in communities.
- As the FCC has recognized, most Indian reservations and communities lack access to essential services, including basic telephone service.
- Resolving the problem of lack of access to basic telephone service, which is evidenced by the low telephone penetration rates on reservations, has been an objective of the FCC for several years now and is something Indian Country community greatly appreciates.
- There is no one magical solution to bridging the telephone and digital divides on reservations, but instead it can only be accomplished through education, cooperation, and recognition of the sovereign rights of the tribes.
- A competitive universal service system is, however, one important means, and is being used today, to bring affordable telephone service to reservations.

Point #2: Competition Works – Tribes Are Beginning To Realize The Benefits Of A Competitive Universal Service System, Which Must Be Maintained By The Joint Board and FCC

- Not so long ago and still today on most reservations, tribal members lack access to basic telephone service, and where such service is available, it often is not affordable because of significant upfront costs or high monthly recurring costs.
 - Tribal Studies show that the disgracefully low telephone penetration rates on reservations is actually much worse than public data demonstrates.
 - Contrary to some assertions, tribal members, like most everyone, want and need access to affordable telephone service to reach emergency service providers, health care workers, government offices and family and friends.
- As previously mentioned, there is no one magical bullet to solve the telephone and digital divides on reservations, but the one universal service public policy that has had the most significant positive impact on the lives of many tribal members has been the establishment of a competitive universal service system.
- For example, over 30,000 residents of the Navajo and Hopi reservations in Arizona now enjoy access to telephone service from Smith Bagley, a competitive Eligible Telecommunications Carrier or CETC; of these 30,000 residents, approximately 25,000 did not previously have access to basic telephone service.
- On the Oglala Sioux reservation, there are more than 4,000 tribal members who have obtained wireless service from Western Wireless; of which more than 3,700 of those tribal members are on universal service Lifeline rate plans of \$1 per month.

- On Yankton and Spirit Lake reservations, there are another 2,500 tribal members enjoying access to competitive universal service offerings, most of whom enjoy access to telephone service for the very first time.
- The issue for tribes is not wireline versus wireless, but access to the type of services which best meet the needs of the citizens of their reservations. Going back to the days of a monopoly provider for telephone service would be catastrophic for the tribes.
- Competition is working because it not only allows the tribes to obtain access to basic telephone service, but also has resulted in:
 - Incumbent telephone companies to provide better service and become generally more responsive to the needs of the tribes.
 - Greater access to advanced telecommunications services; for example, a high-speed data service was recently launched on the Oglala Sioux reservation that would not have been possible but for the provision of basic universal service on the reservation (see attached Press Release).

Point #3: The Joint Board and FCC Should Not Adopt Rules That Directly Or Indirectly Result In Less Universal Service In Rural Areas and On Indian Reservations.

- A cursory review of the record in the universal service proceeding reveals that attention must be paid to the true beneficiaries of universal service policies – namely, rural consumers, including tribal members residing on reservations.
- The objective of any universal service policy must be:

- To expand access to basic and others services for rural consumers; and
- ensure comparability between services available in rural and urban areas.
- To accomplish these objections, the Joint Board and FCC should take into consideration:
 - Refrain from taking action that creates barriers to competitive carriers serving rural areas, including reservations;
 - Do not limit funding to so-called “primary lines” because it would have the actual affect of “cutting-off” service to many tribal members;
 - many tribal members typically live in a household where three or four generations reside and therefore there is a need for access to multiple lines of service;
 - rural reservation consumers, like urban consumers, must have access to multiple lines of service to meet their telecommunications needs;
 - incumbent and competitive carrier offerings are critical if tribes are to realize their full potential economic independence; a “primary line” restriction would have the affect of turning back the clocks on reservations’ attempts to participate in the larger economic society;
 - recognize the sovereign right of tribes to have a determinative voice in the designation of all ETCs on reservation;

- it is deeply concerning that tribes wanting access to competitive universal service offerings are not able to obtain these services because some state commissions have denied or have imposed significant barriers to competitive universal service offerings – this is not consistent with the sovereign rights of the tribes or of the trust responsibility of the FCC.